

Support for employees affected by domestic and family violence

Directive **03/20** | Supersedes: 04/15

Commission Chief Executive and Minister for Industrial Relations Directive

This text box does not form part of the directive

Under the [Human Rights Act 2019](#) decision makers have an obligation to act and make decisions in a way that is compatible with human rights, and when making a decision under this directive, to give proper consideration to human rights.

1. Purpose

This directive supports the Queensland Government's commitment to end domestic and family violence in Queensland and establishes:

- policy and capability building requirements for agencies
- entitlements to domestic and family violence support options in addition to those provided by the *Industrial Relations Act 2016*
- options to support employees affected by domestic and family violence.

2. Effective date

3 July 2020

3. Legislative provisions

Sections 53 to 54A, 55 of the *Public Service Act 2008* (PS Act)

4. Application

This directive applies to public service employees as defined under the PS Act, including chief executives, senior executives and senior officers.

5. Previous references

Commission Chief Executive Directive 04/15

6. Related information

- Directive relating to special leave
- Directive relating to sick leave
- Directive relating to recreation and long service leave
- Directive relating to leave and travel concessions – isolated centres
- Directive relating to leave without salary credited as service
- *Work Health and Safety Act 2011*
- *Domestic and Family Violence Protection Act 2012*
- *Industrial Relations Act 2016*
- *Human Rights Act 2019*
- [Code of Conduct for the Queensland Public Service](#)
- [Workplace DFV support package](#)

7. Principles

- 7.1 The Queensland Government is strongly committed to providing a healthy and safe working environment for all public service employees. It is recognised that employees sometimes face difficult situations in their work and personal life, such as domestic and family violence, that may affect their attendance, performance at work and/or safety. The workplace can make a significant difference to employees affected by domestic and family violence by providing appropriate safety and support measures.
- 7.2 Domestic and family violence occurs when one person in a relationship uses violence or abuse to maintain power and control over the other person. Domestic and family violence can include behaviour that is physically, sexually, emotionally, psychologically or economically abusive, threatening, coercive or that controls or dominates the other person through fear for their own or another person's safety or wellbeing.
- 7.3 Domestic and family violence can affect people of all cultures, religions, ages, genders, sexual orientations, educational backgrounds and income levels.
- 7.4 Domestic and family violence is unacceptable in any setting, including the workplace. A public service employee must not perpetrate domestic and family violence from or in the workplace, including using agency assets or equipment such as work vehicle, telephone, fax, mail, email, internet or social media. A breach of this direction by an employee may result in disciplinary action.
- 7.5 Employees are expected to treat all persons with respect, including other employees, clients and the general public.
- 7.6 Fostering a respectful, inclusive, gender equitable workplace culture, where employees affected by domestic and family violence are supported, contributes to a positive, healthy and safe working environment for all.

8. Confidentiality and disclosure

- 8.1 Confidentiality is critical to ensure the safety of employees affected by domestic and family violence and to encourage affected employees to disclose and seek support.
- 8.2 To enable support and safety measures to be put in place, affected employees are encouraged to disclose information, particularly in relation to a domestic violence order that names or affects the workplace. However, subject to any legal obligation to disclose information, employees have the right to choose whether, when and to whom they disclose information about being affected by domestic and family violence.
- 8.3 Information disclosed by an employee in relation to domestic and family violence must be kept confidential, except to the extent that disclosure is required or permitted by law, or it is necessary for the information to be disclosed to support the employee in the workplace.
- 8.4 Leave applications should be processed in such a way as to maximise confidentiality.

9. Policy, capability development and awareness raising

- 9.1 A chief executive is responsible for ensuring the agency:
 - a) has a policy that outlines the workplace commitment to supporting employees affected by domestic and family violence
 - b) promotes employee awareness of the policy and related support options, including how to access support and advice



- c) develops and maintains organisational capability to respond supportively to employees affected by domestic and family violence, such as face-to-face training for managers, relevant human resources staff and designated domestic and family DFV support staff
- d) makes available, promotes and requires all employees to complete¹ modules 1–4 of the online DFV awareness raising program Recognise, Respond, Refer, or an alternative nominated by the Commission Chief Executive, or delegate.

10. Support options available to employees

10.1 A range of support options is available to assist employees affected by domestic and family violence. Support arrangements should be reviewed regularly to ensure they remain appropriate and can be adjusted to provide suitable supports where circumstances change.

Expectations around supporting documentation

10.2 When considering support options for an employee, any communication regarding supporting documentation must recognise the importance of compassionate and understanding workplaces and must be conducted in a sensitive and non-judgmental manner. Any documentation sighted must be returned to the employee unless the employee requests otherwise.

Leave entitlement

- 10.3 Subject to clause 10.5, an employee affected by domestic and family violence will have access to a minimum of 10 days paid leave per year:
- a) without being required to provide supporting documentation
 - b) without being required to first use other leave types
 - c) which may be taken as consecutive days, single days or a fraction of a day
 - d) for purposes arising from domestic and family violence or supporting a person affected by domestic and family violence. Purposes may include but are not limited to attending medical, legal, police or counselling appointments; attending court and other legal proceedings; and organising alternative accommodation, care or education arrangements
 - e) which does not accrue from year to year and is not an entitlement to be paid out on separation.
- 10.4 For the purpose of clause 10.3 above and acknowledging the complexity of domestic and family violence situations, additional paid leave in excess of 10 paid days of leave per year may be approved at the discretion of the chief executive or delegate having regard to the individual circumstances and needs of the employee affected by domestic and family violence.

The purpose of the additional leave is to provide support where there are extenuating circumstances such as, for example, to support a family affected by domestic and family violence in a regional area where travel to court attendances may take several days, or where safety risks for the family and children require time to organise changes in accommodation or care arrangements. Any discussion of support options, including leave, is to be compassionate, sensitive and maintain confidentiality for the employee.

¹ Except where this may genuinely negatively impact their wellbeing.



10.5 An employee who is applying for leave related to their use, alleged use or potential use of domestic and family violence is not entitled to leave under either clause 10.3 or 10.4, unless all the following are satisfied:

- a) the leave is required to attend a behavioural change program approved under section 75 of the *Domestic and Family Violence Protection Act 2012* by the chief executive of the department administering that Act, delivered by a provider approved under that section;
- b) the employee provides written evidence of their enrolment and attendance in the program referred to in clause 10.5(a); and
- c) the employee has exhausted all other paid recreation or long service leave and accrued time.

Note: The restrictions in clause 10.5 apply only to leave related to an employee's use, potential use or alleged use of domestic and family violence. If the employee is affected by domestic and family violence (for example, they are named as the aggrieved in an application for a domestic violence order, but are also named as the respondent to a cross application being considered at the same court proceeding) then the entitlements in clauses 10.3 and 10.4 continue to apply in relation to their experience of, rather than their use, potential use or alleged use of, domestic and family violence. A person who is experiencing domestic and family violence should not have their support options, including leave entitlements, reduced because they are named as the respondent in a counter claim.

10.6 This directive does not alter any other paid or unpaid leave that may be accessed by a public service employee in accordance with the directives for special leave, sick leave, carers leave, recreation leave, long service leave or other accrued time. These may also be used to attend to matters arising from domestic and family violence where the conditions for leave under those directives are met.

Flexible working arrangements

10.7 A chief executive or delegate will provide employees affected by domestic and family violence (other than those who use or may use domestic and family violence) access to flexible working arrangements. Employees who use or may use domestic violence may request flexible working arrangements under the conditions set out in the *Industrial Relations Act 2016*, in the same way as other employees. Employees are encouraged to discuss their request for flexible working arrangements with their managers, in the first instance.

Counselling support services

10.8 The chief executive or delegate will ensure the agency has an employee assistance provider (EAP) or similar, available to all employees and their immediate family members. The EAP should offer free and confidential support services through face-to-face, telephone and/or online counselling.

10.9 The EAP should also provide specific advice to managers and supervisors on how best to support employees affected by domestic and family violence.



Other workplace supports and role adjustments

- 10.10 The chief executive or delegate will also, wherever appropriate:
- a) conduct risk assessments and implement workplace safety needs and arrangements such as increased security measures to protect affected employees and colleagues;
 - b) support employees to have the workplace included in a Domestic Violence Order issued by the courts; and
 - c) consider providing other temporary or permanent support and reasonable adjustments in the workplace, such as:
 - job redesign or changes to duties
 - changes to working hours or patterns of work
 - alternative suitable employment in other teams, offices, locations and agencies
 - changes to email addresses and telephone numbers and email blocking
 - removal of public access to contact details including online profiles
 - secure parking
 - support to transfer or relocate, where practicable.

Support in relation to work performance and attendance

- 10.11 Work performance or attendance may be influenced by factors not connected with work. Employees will be supported and encouraged to raise concerns about their personal circumstances, including whether domestic and family violence is a contributing factor to work performance and attendance.
- 10.12 It may also be necessary to include additional support and provide reasonable workplace and role adjustments for a period of time. Regular reviews, a return to work plan or a performance improvement process may still be required.

11. Responsibilities

- 11.1 Leaders/managers/supervisors will:
- a) model the public service values, including by behaving in a way that promotes a work environment free from any form of violence
 - b) actively participate in domestic and family violence related learning and development activities offered by the workplace to effectively communicate with and provide support to employees affected by domestic and family violence
 - c) ensure employees actively participate in required domestic and family violence-related learning and development activities and awareness raising activities offered by the workplace²
 - d) sensitively communicate with employees affected by domestic and family violence and maintain confidentiality subject to legal disclosure obligations
 - e) take prompt and appropriate action to support employees affected by domestic and family violence including providing workplace support options and risk management and safety planning as required

² Except where this may genuinely negatively impact their wellbeing.



- f) ensure appropriate levels of support are provided to employees affected by domestic and family violence
- g) ensure employees are aware of available support options and appropriate nominated officers to disclose to and seek support from, as required
- h) ensure appropriate and sensitive management of any work performance and monitoring of attendance issues, keeping in mind the potential effects of domestic and family violence.

11.2 Employees will:

- a) model the public service values, including behaving in a way that promotes a work environment free from any form of violence and abuse
- b) actively participate in domestic and family violence-related learning and development and awareness raising activities such as online domestic and family violence awareness raising programs, except where this may genuinely negatively impact their wellbeing
- c) sensitively communicate with colleagues affected by domestic and family violence and maintain confidentiality, and where appropriate, encourage them to seek assistance
- d) familiarise themselves with available workplace support options and appropriate contact officers for support.

12. Definitions

Unless otherwise defined, the terms in this directive have the meaning set out in the *Public Service Act 2008*.

Domestic and family violence has the same meaning as domestic violence as defined in the *Domestic and Family Violence Protection Act 2012*.

An employee who uses or may use domestic and family violence is an employee:

- a) who has voluntarily identified as a person who uses, or is at risk of using domestic and family violence; or
- b) who has been named as a respondent to an existing application for a domestic violence order or police protection notice; or
- c) to whom a domestic violence order or police protection notice currently applies; or
- d) who has been charged with a domestic and family violence offence by a law enforcement agency and charges remain pending; or
- e) who has been found to be using domestic and family violence by a court.

